

### § 702.303

of this section, and shall promptly notify the appropriate State official of its decision to reclassify.

[65 FR 8584, Feb. 18, 2000, as amended at 65 FR 44974, July 20, 2000; 65 FR 55439, Sept. 14, 2000]

### § 702.303 Prompt corrective action for “adequately capitalized” new credit unions.

Beginning on the effective date of classification as “adequately capitalized” or lower, an “adequately capitalized” new credit union must increase its net worth and transfer earnings to its regular reserve account in accordance with § 702.201, until it is “well capitalized.”

### § 702.304 Prompt corrective action for “moderately capitalized,” “marginally capitalized” or “minimally capitalized” new credit unions.

(a) *Mandatory supervisory actions by new credit union.* A new credit union which is “moderately capitalized,” “marginally capitalized,” or “minimally capitalized” (including by reclassification under § 702.302(d) must—

(1) *Earnings transfer.* Beginning on the effective date of classification as “moderately capitalized” or lower, increase net worth and quarterly transfer earnings to the credit union’s regular reserve account in an amount reflected in the credit union’s approved initial or revised business plan;

(2) *Submit revised business plan.* Submit a revised business plan pursuant to § 702.306 if either—

(i) The credit union’s net worth ratio has not increased consistent with its then-present approved business plan; or

(ii) The credit union has no then-present approved business plan; or

(iii) The credit union has failed to undertake any mandatory supervisory action prescribed in this paragraph; and

(3) *Restrict member business loans.* Beginning the effective date of classification as “moderately capitalized” or lower, not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the applicable proce-

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dures set forth in subpart L of part 747 of this chapter for issuing, reviewing and enforcing directives, the NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) if the credit union’s net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

(c) *Discretionary conservatorship or liquidation.* Notwithstanding any other actions required or permitted to be taken under this section, the NCUA Board may place a new credit union which is “moderately capitalized,” “marginally capitalized” or “minimally capitalized” (including by reclassification under § 702.302(d)) into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i), provided that the credit union has no reasonable prospect of becoming “adequately capitalized.”

### § 702.305 Prompt corrective action for “uncapitalized” new credit unions.

(a) *Mandatory supervisory actions by new credit union.* If a federally-insured new credit union either remains “uncapitalized” beyond the time period provided in its initial business plan (approved at the time the credit union’s charter was granted), or subsequently declines to that category from a higher category after the expiration of that period, it must—

(1) *Earnings transfer.* Increase net worth and quarterly transfer earnings to the credit union’s regular reserve account in an amount reflected in the credit union’s approved initial or revised business plan;

(2) *Submit revised business plan.* Within 90 days of the effective date of classification as “uncapitalized” as provided in paragraph (a) of this section, or such shorter period as the NCUA Board specifies, submit a revised business plan pursuant to § 702.306 providing for alternative means of funding the credit union’s earnings deficit; and (3) *Restrict member business loans.* Not increase the total amount of member